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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,990	08/06/2003	Dennis Wayne Rice	103864.134US1	7455
28089	7590	10/05/2006	EXAMINER	
WILMER CUTLER PICKERING HALE AND DORR LLP			GRAY, LINDA LAMEY	
399 PARK AVENUE			ART UNIT	
NEW YORK, NY 10022			PAPER NUMBER	

1734

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,990

Applicant(s)

RICE ET AL.

Examiner

Linda L. Gray

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-41, 43-61, 64, 68 and 70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-41, 43-58 and 68 is/are allowed.
- 6) ☒ Claim(s) 59-61, 68, 70 and 71 is/are rejected.
- 7) ☒ Claim(s) 72-74 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Detailed Action

Claim Rejections - 35 USC 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 59-61 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vijuk (US 6,273,411) in view of Fattal et al. (US 4,927,486).

Claims 59 and 68, Vijuk teaches a system capable of labeling containers with an adhesive label including tool 153/155 capable of reducing a label, device 152 capable of applying adhesive to the label such that the label is capable of being maintained in the reduced orientation, and device 238 capable of conveying the label from tool 153/155 to tool 156 which is capable of applying the label to the container. Tool 153/155 folds the label by rolling around and between a set of rollers. The system includes means 151 for providing the label to tool 153/155 (col 8-10). Tool 156 is "conventionally known and is adapted to attach an adhesive-backed closure member about the unfolded side 16 of the booklet" (c 9, L 59-62) indicating that Vijuk teaches that tool 156 includes means for applying adhesive to the label for labeling. Rollers, of tool 153/155 have two ends, are driven roller (device present for rotation on at least), and rotate about an axis.

Claims 59 and 68, Vijuk does not teach a barcode reader (label identifier, claim 68) capable of scanning a barcode printed on the label.

Fattal et al. teach a system capable of labeling containers 1 with an adhesive label including tool 11 capable of applying the finished label to container 1. The system

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includes barcode reader 12 (a label identifier) capable of scanning a barcode on the label. Reader 12 is provided to scan the barcode after labeling to determine if the correct label has been applied and if the label is in the correct position (col 2-3).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Vijuk using the labeling system of Fattal et al. as labeler 156 (a barcode printer for the labels of Vijuk in item 25 of Fattal et al., a barcode reader, etc.) because Fattal et al. teach that such allows one to then determine if the correct label has been applied and if the label is in the correct position.

Claims 59 and 68, the limitations that the containers include medication, that containers are bottles or packages, and that the labels include information regarding the medication and include visible identification refer to items operated upon by the claimed system and are not positive structural limitations for the claimed system.

Claim 60, the system of Vijuk is automatic and thus suggests a controller for operation. Claim 61, the system includes means for removing the label from tool 153/155 and includes the nip rollers at the exit of tool 153/155.

Claim Rejections - 35 USC 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 from the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless - (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 70 is rejected under 35 U.S.C. 102(b) as being anticipated by Vijuk.

Claim 70, the above discussion of Vijuk applies herein.

Claim Rejections - 35 USC 103

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5. Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vijuk as applied to claim 70 above, and further in view of Fattal et al.

Claim 71, the above combination of Vijuk with Fattal et al. applies herein.

Allowable Subject Matter

6. Claim 34-36, 38-40, 46-48, and 53-55 are allowed.

Claim 37 is allowed.

Claim 41 is allowed.

Claims 43-45 and 49 are allowed.

Claims 50-52 are allowed.

Claims 56-58 are allowed.

Claims 72-74 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: claim 34, the combination of Vijuk with Fattal et al. or Voltmer et al. with Vijuk and Fattal et al. does not teach a barcode reader capable of scanning a barcode on the reduced label in combination with a label reducer capable of reducing a label having this barcode thereon and functions to maintain this barcode in a visible position on the reduced label where the combination includes a barcode printer after the label reducer. The reasons for the allowance of the other claims is present in a prior Office action. Also, claim 72, the references do not teach a second scanner and in the alternative does not teach that the scanner is capable of scanning identification on the label not labeled. Claim 73, the prior art of record does not teach a database that checks the correspondence between to separate identifications sent to the database via the scanning device or another scanning device in that the scanning device is capable of scanning one barcode per label.

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8. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP 707.07(a).

Response

9. Applicant's comments have been entered. Hoffman: Hoffman is removed in that the reference does not teach a label reducer but cuts a label from a continuous web then labels a container with the label and does not further reduce the size of the label with a label reducer. Claim limitations that the containers include medication, that containers are bottles or packages, and that the labels include information regarding the medication and include visible identification refer to items operated upon by the claimed system and are not positive structural limitations for the claimed system.

Voltmer: Voltmer is removed in that the combination of Voltmer et al. with Vijuk and Fattal et al. destroys the labeling apparatus of Voltmer et al. because the combination suggested replacing the labeling apparatus of Voltmer et al. in view of Vijuk with that of Fattal et al. where one skilled in the art would not consider such a replacement to be operable or necessary or obvious. Claim limitations that the containers include medication, that containers are bottles or packages, and that the labels include information regarding the medication and include visible identification refer to items operated upon by the claimed system and are not positive structural limitations for the claimed system.

Vijuk: Vijuk teaches the positive claim limitation that device 152 capable of applying adhesive to the label such that the label is capable of being maintained in the reduced orientation. Claim limitations that the containers include medication, that containers are bottles or packages, and that the labels include information regarding the medication and include visible identification refer to items operated upon by the claimed system and are not positive structural limitations for the claimed system. Tool 156 is "conventionally known and is adapted to attach an adhesive-backed closure member about the unfolded side 16 of the booklet" (c 9, L 59-62) indicating that Vijuk teaches that tool 156 includes means for applying adhesive to the label for labeling, see Applicant's request on page 21 of the response, first full paragraph.

Fattal et al. teaches a robotic arm and controllers for labeling, see Applicant's request on page 21 of the response, first full paragraph.

New claims 70-74 have been addressed as provided above. Claim 34 has been addressed in view of the amendment. The amendments to claims 56, 59, and 68 have also been addressed.

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Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

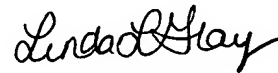
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla, can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public Pair. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-1997 (toll-free).

llg

October 2, 2006


LINDA GRAY
PRIMARY EXAMINER